

**REMARKS**

Presently pending in this application are claims 1-32. In the Office Action mailed December 2, 2002, the Examiner rejected claims 1, 2, 5-7, 10-25, 27-28, and 31 under 35 U.S.C. §102(e) as being anticipated by Fijolek et al. (U.S. Patent No. 6,240,464 B1), hereinafter Fijolek; and claim 29 under 35 U.S.C. § 103(a) as obvious over Fijolek in view of Beser. The Examiner also objected to claims 3, 4, 8, 9, 26, 30 and 32 as being dependent upon rejected base claims.

Applicant appreciates the Examiner noting that claims 3, 4, 8, 9, 26, 30 and 32 claim allowable subject matter. Applicant also respectfully traverses the rejections and request favorable reconsideration in view of the following remarks.

**Claims 1, 2, 5-7, 10-25, 27-28, and 31 are not anticipated by Fijolek**

Claims 1, 16, 23, 27, 28, 29, and 31 are the rejected independent claims presently pending in this application.

Independent claims 1, and 27-28 recite a "temporary configuration server;" independent claim 16 recites a "temporary configuration protocol server;" and independent claim 23 recites the step of "sending a temporary network address." Applicant respectfully submits that claims 1, 2, 5-7, 10-25, 27-28, and 31 are not anticipated by Fijolek. Fijolek does not teach or suggest a "temporary configuration server" as recited in claim 1, and 27-28; nor a "temporary configuration protocol server" as recited in claim 16, nor the step of "sending a temporary network address" as recited in claim 23.

The Examiner cites to col. 28, lines 22-28 in Fijolek as teaching a "temporary configuration server," and a "temporary configuration protocol server." Applicant respectfully submits that the cited passage does not teach a "temporary configuration server," and a "temporary configuration protocol server." Rather, the passage describes operation of a permanent or typical DHCP 66 as it provides an IP address with a lease time. Applicant respectfully notes that the cited passage does not address "responding to configuration messages from the customer premises equipment before the network connection is capable of connecting the customer premises equipment to the data network." The

1 operation of the DHCP 66 described in Column 28, lines 18-30 presumes and  
2 even requires that the network host client be able to communicate over the  
3 network. Fijolek therefore does not anticipate claims 1, 16, and 27-28.

4 The Examiner also refers to column 2, lines 18-47 as teaching the step of  
5 "sending a temporary network address" as recited in claim 23. This passage  
6 however describes how a cable modem used in a data-over-cable system with  
7 telephony return is initialized. The downstream connection of the cable modem  
8 with the cable modem termination system and the upstream connection between  
9 the cable modem and the telephony remote access concentrator are described.  
10 The passage also describes the different protocols used to establish IP  
11 addresses with the cable modem and the cable modem termination system. See  
12 Fijolek, col. 2, lines 18-47. One of the protocols described in this passage is the  
13 Dynamic Host Configuration Protocol (DHCP).

14 The cited passage, however, fails to teach or suggest sending a  
15 temporary network address. Applicant also notes that the passage fails to teach,  
16 suggest or refer to "determining whether a connection can be made to the  
17 configuration protocol server, and if not, responding to the customer premises  
18 equipment by sending the temporary network address." Fijolek presumes and  
19 requires that the customer premises equipment be able to communicate with the  
20 configuration protocol server and therefore does not address the problem that  
21 would be resolved by sending a temporary network address.

22 Anticipation requires that each and every element be taught or disclosed  
23 in the cited reference. As shown above, Fijolek fails to teach at least one  
24 element of independent claims 1, 16, 23, and 27-28. Therefore, claims 1, 2, 5-7,  
25 10-25, 27-28, and 31 are not anticipated. Applicant respectfully requests that the  
26 Examiner's rejections be withdrawn. Favorable reconsideration is respectfully  
27 requested.

28 **Claim 29 is not obvious over Fijolek in view of Beser**

29 The Examiner has rejected claim 29 as obvious over Fijolek in view of  
30 Beser. The Examiner argues that Fijolek teaches "a temporary configuration  
31 server as recited in claim 29 citing to column 28, lines 22-28 as support.

1 However, Applicant has noted above that the cited passage lacks any teaching  
2 or suggestion of a "temporary configuration server." Applicant respectfully  
3 submits that the Examiner erred in asserting Fijolek as a reference against claim  
4 29 under § 103(a).

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**SUMMARY**

7 Applicant respectfully submits that, in view of the remarks above, the  
8 present application, including claims 1-32, is now in condition for allowance and  
9 solicit action to that end. If there are any matters, which may be resolved or  
10 clarified through a telephone interview, the Examiner is respectfully requested to  
11 contact Applicant's undersigned representative.

Respectfully submitted,

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